

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF PROPOSED RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2003, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code §§ 25-211(b) (2012 Repl. & 2016 Supp.)), the Alcoholic Beverage Enforcement Act of 2008, effective March 25, 2009 (D.C. Law 17-0361; D.C. Official Code § 25-830(f) (2012 Repl. & 2016 Supp.)), and Mayor’s Order 2001-96, dated June 28, 2001, as amended by Mayor’s Order 2001-102, dated July 23, 2001, hereby gives notice of the intent to amend the existing ABRA civil penalty schedule set forth in Chapter 8 (Enforcement, Infractions, and Penalties) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (“DCMR”).

The proposed rules are intended to update the civil penalty schedule (“Schedule”) by (1) incorporating new infractions and penalties, including those passed by the Council for the District of Columbia in the Omnibus Alcoholic Beverage Regulation Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-260; 64 DCR 2079 (February 24, 2017)); (2) changing the tier for certain infractions from “primary to secondary” or “secondary to primary”; (3) allowing the Board to issue discretionary warnings for infractions that are not presently eligible for receiving a warning; and (4) correcting D.C. Official Code and DCMR citations. *Those infractions not listed on the Schedule below shall remain in full effect and not be impacted by the proposed rulemaking.*

On June 21, 2017, the Board voted, six (6) to zero (0) to approve the proposed rules which, pursuant to D.C. Official Code § 25-211(b)(2) (2012 Repl.), will be transmitted to the Council of the District of Columbia, for a ninety (90) day period of review. The proposed rules will become effective in not less than thirty (30) days from publication of this notice in the *D.C. Register*, or upon approval by the Council by resolution, whichever occurs later. If the Council does not approve or disapprove the proposed rules by resolution, in whole or in part, within the ninety (90) day review period, the proposed rules shall be deemed disapproved.

**Chapter 8, ENFORCEMENT, INFRACTIONS, AND PENALTIES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:**

**Section 800, ABRA CIVIL PENALTY SCHEDULE, Subsection 800.1, is amended by inserting and replacing the following infractions to the ABRA Civil Penalty Schedule in numerical order:**

<b>Section</b>	<b>Description</b>	<b>Violation</b>	<b>Warning</b>
25-110	Violating Terms of Manufacturer's License	Primary	Y
25-111	Violating Terms of Wholesaler's License	Primary	Y
25-112(a)-(c)	Violating Terms of Off-Premise Retailer's License	Primary	Y
25-113	Violating Terms of On-Premise Retailer's	Primary	Y

	License		
25-113(a)(5)(A)	Retailer's Class C or D Purchased Alcoholic Beverages from an Off-Premises Retailer's Class A or B	Primary	N
25-113a(b)(1)	Failure to Obtain Entertainment Endorsement	Primary	Y
25-113a(b)(1)	Cover Charge Without Endorsement	Secondary	Y
25-113a(b)(1)	Dancing Without Endorsement	Secondary	Y
25-113a(c)	Operating a Summer Garden or a Sidewalk Café Outside of Allowed Hours	Primary	Y
25-114(a)	Violating Terms of Arena C/X License	Primary	Y
25-115(a)	Violating Terms of Temporary License	Primary	Y
25-116	Violating Terms of Solicitor's License	Primary	Y
25-117	Violating Terms of Brew Pub Permit	Primary	Y
25-118	Failure to Obtain Tasting Permit, or Exceeding Scope of Tasting Permit	Primary	Y
25-120(i)(A)(i)	A Manager Directly Sold an Alcoholic Beverage to a Minor	Primary	Y
25-120(i)(A)(ii)	A Manager Directly Interfered with an ABRA or MPD Investigation	Primary	N
25-120(i)(A)(iii)	A Manager Made False or Misleading Statements During or After a RI or Investigation	Primary	N
25-120(i)(A)(iv)	A Manager Aided, Abetted, or Conspired with a Licensed or Unlicensed Person to Evade Compliance with ABRA Requirements	Primary	N
25-120(i)(A)(v)	A Manager Allowed the Manager's License to be Used by an Unlicensed Person	Primary	N
25-123	Violating Terms of Farm Winery License	Primary	Y
25-126(a)	Sale, Service and/or Consumption Without the On-Site Sale and Consumption Permit – Manufacturer Licenses	Primary	Y
25-126(b)	Sale, Service, and/or Consumption Outside of the On-Site Sale and Consumption Permit Approved Hours- Manufacturer Licenses	Primary	Y
25-127	Violating Terms of Festival License	Primary	Y
25-371	Allowing Nude Dancing Without a License	Primary	Y
25-372	Violating Restrictions on Nude Dancing Performances	Primary	Y
25-401	False Statement on an Application or in Any Accompanying Statement required by the Board	Primary	N
25-405	Transfer of Ownership Without Board Approval	Primary	Y
25-701	Board-Approved Manager Required	Secondary	Y

25-703	Licensee or Board Approved Manager Superintending the Licensed Establishment under the Influence of Alcohol or Illegal Drugs	Primary	Y
25-711(f)	Owner or Licensed Manager Failure to Produce a Valid ID to ABRA or MPD	Secondary	Y
25-721	Sale and Delivery Outside of Allowed Hours for Manufacturer & Wholesaler	Primary	Y
25-722	Sale and Delivery Outside of Allowed Hours - Off Premises Licensees	Primary	Y
25-723(b)	Sale and Delivery Outside of Allowed Hours - On-Premises Licensees	Primary	Y
25-723(b)	Sale and Service Outside of Licensed Hours	Primary	Y
25-724	Operating After Board Restricted Hours	Primary	Y
25-725	Noise from Licensed Establishment	Secondary	Y
25-753	Keg Registration Required	Primary	Y
25-762(b)(10)	Failure to Obtain Approval to Change Entertainment to Include Nude Performances	Primary	Y
25-762(b)(13)	Failure to Obtain Approval to Extend Hours of Operation	Primary	Y
25-762(b)(18)	Failure to Obtain Approval to Increase Number of Vessels Under On-Premises	Primary	Y
25-781	Sale to Minors - Egregious	Primary	Y
25-781	Sale to Minors - Non-egregious	Primary	Y - Mandatory
25-781	Sale to Intoxicated Persons	Primary	Y
25-802	Failure to Allow Examination of Premises, Books and Records	Primary	Y
25-823(a)(1)	Violation of Any Law Outside of Title 25 of the District of Columbia Code or Title 23 of the District of Columbia Municipal Regulations	Primary	Y
25-823(a)(2)	Allowing Establishment to be Used for an Unlawful or Disorderly Purpose	Primary	N
25-823(a)(3)	Failure by Owner or ABC Manager to Superintend Licensed Business	Secondary	Y
25-823(a)(4)	Allowing Employees or Agents to Engage in Prostitution, Sexual Acts, or Sexual Contact	Primary	Y
25-823(a)(5)	Failure to Allow/Delays ABRA or MPD to Inspect Premises or Books and Records	Primary	N
25-823(a)(5)	Interferes With ABRA or MPD Investigation	Primary	Y
25-823(a)(6)	Failure to Follow Settlement Agreement	Secondary	Y
25-823(a)(6)	Failure to Follow Security Plan	Primary	Y
25-823(a)(6)	Failure to Follow a Board Order	Primary	Y

25-828(c)	Licensee Defaces Notice of Suspension Placard	Secondary	Y
25-833	Tampering or Refilling Bottles	Primary	N
25-834	Sell or Offer to Sell Powdered Alcohol	Primary	N
25-835	Forged, Counterfeit, or Endorse a Document Issued by ABRA	Primary	N
23 DCMR 705.9	Retailer's Class C, D, F, G, or Caterer Permits the Consumption of Alcoholic Beverages After Hours	Primary	Y
23 DCMR 706	Remaining Open Without Securing Beverages or Having an ABC Manager or Owner Present	Secondary	Y
23-DCMR 707.1	Licensee or Board Approved Manager on Licensed Premises During Hours of Sale, Service or Consumption	Secondary	Y
23-DCMR 721.1	Allowing Establishment to Provide Bottle Service of Alcoholic Beverages to One (1) or More Non Seated Patrons	Secondary	Y
23-DCMR 721.2	Allowing Establishment to Serve a Bucket filled with Containers of Beer to One (1) or More Non-Seated Patrons	Secondary	Y
23-DCMR 721.3	Failure by the Server to Open All Closed Containers Before Serving Them to the Seated Patrons	Secondary	Y
23-DCMR 721.4	Allowing Patrons to Remove the Bottle or Pitcher from the Table, Bar or Other Seating Area Where Served	Secondary	Y
23 DCMR 902	Open Container or Package in Vehicle	Primary	Y
23 DCMR 1207.9	False Statement on a Quarterly Statement or Annual Report	Primary	N
23 DCMR 2002.2	Failure to Maintain Caterer Records	Primary	Y

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009. All persons desiring to comment on the emergency and proposed rulemaking must submit their written comments, not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*, to the above address or via email to [martha.jenkins@dc.gov](mailto:martha.jenkins@dc.gov).